

**BEFORE THE MINNESOTA
EMERGENCY MEDICAL SERVICES REGULATORY BOARD**

In the Matter of
Plainview Emergency Medical Services
License Number: 0198 & 2000

**STIPULATION AND
CONSENT ORDER**

STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between Plainview Emergency Medical Services ("Licensee") and the Complaint Review Panel ("Review Panel") of the Emergency Medical Services Regulatory Board ("Board") as follows:

I.

JURISDICTION

1. The Board is an executive branch state agency responsible for licensing ambulance services in the State of Minnesota.
2. During all times herein, Licensee has been and continues to be subject to the jurisdiction of the Board.
3. Minnesota Statutes section 144E.19, subdivision 1 authorizes the Board to take disciplinary action on the ambulance license of a licensee upon a finding that the licensee has violated a provision of Minnesota Statutes section 144E or a rule adopted under this chapter or has ceased to provide the service for which the licensee is licensed.
4. Disciplinary action may include suspension, revocation, refusal to renew, or the placement of conditions in the license of the licensee.

5. Licensee has been advised by Board representatives that it may choose to be represented by legal counsel in this matter. The Review Panel is represented by Gregory J. Schaefer, Assistant Attorney General, 1400 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2131, telephone (651) 757-1366.

II.

FACTS

For the purpose of this Stipulation, the parties consider the following facts as true:

6. Licensee possesses two ambulances licenses for its ambulance service issued by the EMSRB.

7. A "correction order" is a notice issue by the Board to a licensee identifying a licensee's violation of the provisions of Minnesota Statutes section 144E.01 to 144E.18 and 144E.30, and/or a violation of Minnesota Rules, parts 4690.0100 to 4690.8300. The correction order also identifies the time period in which the licensee shall correct the violation.

8. Board staff review of Licensee's written on-call schedules revealed statutory non-compliance with scheduling of ambulance service personnel for the following dates:

March 11, 2012	May 5, 2012	July 1, 2012	July 4, 2012
July 21, 2012	July 22, 2012	July 28, 2012	August 12, 2012
August 30, 2012	August 31, 2012	September 3, 2012	September 8, 2012
September 9, 2012	September 10, 2012	September 11, 2012	September 12, 2012
September 13, 2012	October 7, 2012	October 10, 2012	October 14, 2012
October 16, 2012	October 17, 2012	October 18, 2012	October 19, 2012
April 3, 2015	April 17, 2015	April 22, 2015	April 26, 2015
May 1, 2015	May 2, 2015	May 3, 2015	May 6, 2015
May 7, 2015	May 8, 2015	May 9, 2015	May 11, 2015
May 13, 2015	May 15, 2015	May 16, 2015	May 17, 2015
May 19, 2015	May 20, 2015	May 22, 2015	May 24, 2015
May 25, 2015	May 26, 2015	May 28, 2015	May 29, 2015
May 30, 2015	June 1, 2015	June 2, 2015	June 3, 2015
June 4, 2015	June 8, 2015	June 9, 2015	June 10, 2015
June 11, 2015	June 12, 2015	June 14, 2015	June 16, 2015
June 17, 2015	June 18, 2015	June 19, 2015	June 22, 2015

June 23, 2015	June 24, 2015	June 25, 2015	June 26, 2015
June 30, 2015	July 1, 2015	July 2, 2015	July 3, 2015
July 4, 2015	July 5, 2015	July 7, 2015	July 8, 2015
July 9, 2015	July 11, 2015	July 13, 2015	July 14, 2015
July 15, 2015	July 17, 2015	July 18, 2015	July 19, 2015

9. The Board issued correction orders on the following dates to Licensee for its failure to provide continual ambulance service and staffing in accordance with the requirements set forth in Minnesota Statutes section 144E.101, subdivision 3 (“[a]n ambulance service shall offer service 24 hours per day every day of the year. . . .”) and Minnesota Statutes section 144E.101, subdivision 11 (a)(1) (“[a]n ambulance service shall maintain at least two ambulance service personnel on a written on-call schedule[.]”):

June 19, 2011	January 1, 2012	June 16, 2012
September 27, 2012	May 11, 2015	

10. On July 1, 2015, the Board issued corrections orders to Licensee for its failure to provide continual ambulance service and staffing in accordance with the requirements set forth in Minnesota Statutes section 144E.101, subdivision 3 (“[a]n ambulance service shall offer service 24 hours per day every day of the year. . . .”) and Minnesota Statutes section 144E.101, subdivision 6 (a) (“. . . a basic life support ambulance service shall be staffed by at least two EMT’s . . .”). The Board also issued a concurrent fine in the amount of \$400.00 for Licensee’s ongoing failure to comply with continual service and staffing requirements; Licensee failed to respond to requests for ambulance service on the following dates:

May 30, 2015	June 11, 2015	June 23, 2015	June 25, 2015
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11. On July 31, 2015, the Board issued correction orders to Licensee for: (1) its failure to respond to calls on May 22, 2015, June 18, 2015, and July 11, 2015; and (2) its

ongoing failure to staff its basic life support ambulance with at least two Emergency Medical Technicians. The board also issued a concurrent fine in the amount of \$400.00

III

DISCIPLINARY ACTION

Licensee agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify disciplinary action. The parties agree the Board may take the following disciplinary action and require compliance with the following terms:

A. Stayed Suspension

12. The Board hereby suspends Licensee's ambulance service licenses. The suspension is **STAYED** so long as Licensee complies with the following requirements.

a. Within sixty (60) days of the date of this Stipulation and Order, Licensee shall undergo a Rural Ambulance Assessment by a panel determined by Board staff. A Rural Ambulance Assessment is described in Appendix "A." It is attached hereto and is incorporated herein by reference. Licensee shall be responsible for the cost of the assessment. Licensee shall comply with all reasonable recommendations by the panel relating to staffing, scheduling, and providing continuous service.

b. Licensee shall have sufficient staffing to respond to all requests for ambulance service within Licensee's primary service area.

c. Licensee shall continue to provide copies of its written on-call schedules to the Board for review.

d. Licensee has entered into a continual service agreement as allowed by

Minnesota Statutes section 144E.101, subdivision 12 with the Elgin Ambulance Service, a neighboring ambulance service, to provide coverage of Licensee's primary service area when the Licensee is not able to do so.

B. Licensee's Petition for Removal of Stayed Suspension

13. Licensee may petition for removal of the stayed suspension at any regularly scheduled Review Panel meeting following twelve (12) months from the date of the order. Licensee's stayed suspension may be removed, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof shall be upon Licensee to demonstrate by a preponderance of the evidence that Licensee has and maintains the requisite staff to provide the services for which it is licensed. The Review Panel at any regularly scheduled meeting following Licensee's petition for removal of the stayed suspension may remove the stayed suspension, remove the stayed suspension with limitations or conditions placed upon the Licensee's license, or continue the stayed suspension of Licensee's license based upon Licensee's failure to meet the burden of proof.

After the successful petition for a Removal of Stayed Suspension no disciplinary proceeding may be brought against the Licensee pursuant to Minnesota Statutes section 144E.19, subdivision 1, or any other action for insufficient staffing or other noncompliance of conduct covered under this order, for any conduct claimed to have occurred prior to July 19, 2015.

IV.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

A. Noncompliance with Requirements for Stayed Suspension

14. If the Review Panel has probable cause to believe Licensee has failed to comply with or has violated any of the requirements for staying the suspension as outlined in paragraph

13 above, the Review Panel may revoke the stay of suspension pursuant to the procedures outlined in paragraph 16 below with the following exceptions:

a. The revocation of the stayed suspension shall take effect upon service of an Order of Revocation of Stayed Suspension ("Order of Revocation"). Licensee agrees that the Review Panel is authorized to issue an Order of Revocation, which shall remain in effect and shall have the full force and effect of an order of the Board until the Board makes a final determination pursuant to the procedures outline in paragraph 15 below or until the complaint is dismissed and the order is rescinded by the Review Panel. The Order of Revocation shall confirm the Review Panel has probable cause to believe Licensee has failed to comply with or has violated one or more of the requirements for staying the suspension of the license. Licensee further agrees an Order of Revocation issued pursuant to this paragraph shall be deemed a public document under the Minnesota Government Data Practices Act. Licensee waives any right to a conference or hearing before removal of the stayed suspension.

b. The Review Panel shall schedule the hearing pursuant to paragraph 16 below to be held within sixty (60) days of service of the Order of Revocation.

B. Noncompliance With Stipulation and Consent Order

15. If Licensee fails to comply with or violates this Stipulation and Consent Order, the Review Panel may, in its discretion, seek additional discipline either by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14 or by bringing the matter directly to the Board pursuant to the following procedure:

a. The Review Panel shall schedule a hearing before the Board. At least twenty 20 days prior to the hearing, the Review Panel shall mail Licensee a notice of the violation(s) alleged by the Review Panel. In addition, the notice shall designate the time and place of the

hearing. Within ten days after the notice is mailed, Licensee shall submit a written response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

b. The Review Panel, in its discretion, may schedule a conference with Licensee prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

c. Prior to the hearing before the Board, the Review Panel and Licensee may submit affidavits and written argument in support of their positions. At the hearing, the Review Panel and Licensee may present oral argument. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits submitted prior to the hearing and this Stipulation and Consent Order. Unless stated otherwise in this Stipulation and Consent Order, the Review Panel shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Licensee has failed to submit a timely response to the allegations, Licensee may not contest the allegations but may present argument concerning the appropriateness of additional discipline. Licensee waives a hearing before an administrative law judge, discovery, cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.

d. Licensee's correction of a violation prior to the conference, hearing, or meeting of the Board may be taken into account by the Board but shall not limit the Board's authority to impose discipline for the violation. A decision by the Review Panel not to seek discipline when it first learns of a violation will not waive the Review Panel's right to later seek discipline for that violation, either alone or in combination with other violations, at any time while this order is in effect.

e. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board will dismiss the allegations. If a violation is proved, the Board may impose additional discipline, including revocation of Licensee's licenses.

f. Nothing herein shall limit the Review Panel's or the Board's right to temporarily suspend Licensee's licenses pursuant to Minnesota Statutes section 144E.19, subdivision 1, based on a violation of this Stipulation and Consent Order or based on conduct of Licensee not specifically referred to herein.

V.

ADDITIONAL TERMS

16. Licensee waives the contested case hearing and all other procedures before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or rules.

17. This Stipulation and Consent Order ("Stipulation"), related investigative reports, and other documents shall constitute the entire record of the proceeding upon which this order is based. The investigative reports, other documents, or summaries thereof may be filed with the Board with the Stipulation. Any reports or other material related to this matter which may be received after the date the Board approves the Stipulation shall become a part of the record and may be considered by the Board in future aspects of this proceeding.

18. In the event the Board in its discretion does not approve this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action by either party hereto, except that Licensee agrees that if the Board rejects this Stipulation and this case proceeds to hearing, Licensee will assert no claim

that the Board was prejudiced by its review and discussion of this Stipulation or of any records relating hereto.

19. Licensee waives any claims against the Board, the Minnesota Attorney General, the State of Minnesota, and their agents, employees, and representatives related to the investigation of the conduct herein, or the negotiation or execution of this Stipulation and Consent Order, which may otherwise be available to Licensee.

20. Either party may seek enforcement of this Stipulation and Consent Order in any appropriate civil court.

21. Licensee is responsible for all costs incurred as a result of compliance with this Stipulation and Consent Order.

22. Licensee waives any further hearings on this matter before the Board to which Licensee may be entitled by Minnesota or United States Constitutions, statutes, or rules and agrees that the Order to be entered pursuant to the Stipulation shall be the final Order herein.

23. This Stipulation shall not limit the Board's authority to proceed against Licensee by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Licensee which constitutes grounds for disciplinary action and which is not directly related to the specific facts and circumstances set forth in this document.

VI.

DATA PRACTICES NOTICE

24. This Stipulation constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 5. Data regarding this action will be provided to data banks as required by Federal law or consistent with Board policy. While this Stipulation is in effect, information obtained by the Board pursuant to this Stipulation

is considered active investigative data on a licensee and, as such, is classified as confidential data pursuant to Minnesota Statutes section 13.41, subdivision 4.

25. Licensee hereby acknowledges having read and understanding this Stipulation and has voluntarily entered into this Stipulation without threat or promise by the Board or any of its members, employees, or agents. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Stipulation.

CONSENT:

CITY OF PLAINVIEW
FOR
PLAINVIEW EMERGENCY
MEDICAL SERVICES

COMPLAINT REVIEW PANEL


By: Bill

It's Licensee

Dated:

Sept 8, 2015


MATTHEW SIMPSON
Board Member

Dated:

9.10.15

ORDER

Upon consideration of this Stipulation and Consent Order and all the files, records, and proceedings herein, the Board **SUSPENDS** Licensee's licenses. The suspension is **STAYED** so long as Licensee complies with the requirements and adopts all of the terms described above on this 22nd day of Sept, 2015

MINNESOTA EMERGENCY MEDICAL
SERVICES REGULATORY BOARD

By: 

ANTHONY SPECTOR
Executive Director